



DAVID MARCUS, ESQ.
COUNSEL
DAVID@ADELMANMATZ.COM
DIR: (646) 915-1190

March 15, 2022

VIA ECF

Hon. Denise L. Cote, U.S.D.J.
United States District Court
500 Pearl Street, 18B
New York, NY 10007

Re: *Awilda Rios, et al. v. MicMac Records, Inc., et al.* /Case No.: 1:22-cv-2008-AJN

Hon. Judge Cote:

We represent Phase One Network, Inc. (“Phase One”), Frank Babar (“Babar”) and MicMac Records, Inc. (“MicMac”) (the “Phase One Defendants”) in the above referenced action. This letter is being written to Your Honor as this matter was temporarily referred to you yesterday pursuant to an email from Judge Nathan’s chambers. Pursuant to I.E of the Your Honor’s Individual Practices, we write to respectfully request that the Phase One Defendants’ time to respond to the complaint of Plaintiffs Awilda Rios, Mildred Rios and the Rios Sisters (“Plaintiffs”) be extended 30 days, from March 17, 2022¹, to April 18, 2022. No prior request for the within requested relief has been made.

The Phase One Defendants will likely be filing a motion to dismiss in response to the complaint and request this short extension of time as Sarah Matz, lead counsel on this matter is traveling out of the state attending a previously scheduled conference this week and due to other pre-existing conflicts and workload, an extension of time is necessary. Additionally, as Your Honor is aware, based on this Court’s order of yesterday’s date [Dkt No. 13], the parties are to appear before Judge Nathan on March 23, 2022 to discuss, *inter alia*, Plaintiffs’ pending motions for a preliminary injunction and for a contempt order. If these motions are not withdrawn, we anticipate that Judge Nathan will set a briefing schedule for those motions. The Phase One Defendants’ requested extension will hopefully bring their deadline to respond to the complaint to a date after their opposition papers, and their own motions, are due to be filed so that we can focus on the more time sensitive motions.

We emailed Plaintiffs’ counsel yesterday afternoon to advise that we would be making this request and seeking their consent or if they would not provide consent their reasons for not consenting. We did not receive a response regarding our request for an extension of time to respond to the Complaint, and instead received an email about addressing other scheduling matters at the conference next week with the Court, but that he would be available this afternoon to discuss any other issues.²

¹ Although the Phase One Defendants do not believe that service was properly effectuated, it appears pursuant to Fed. R. Civ. P. 81(c)(2) that the earliest date that the Phase One Defendants’ response is due would be March 17, 2022, i.e. 7 days from the date that the Notice of Removal was filed.

² In today’s initial email, we requested a response from Plaintiffs’ counsel by 3 PM so that we could file this letter motion with the Court.

ADELMAN MATZ P.C.

PHONE: (646) 650-2207 • FAX: (646) 650-2108

MAILING:
1173A SECOND AVENUE, SUITE 153
NEW YORK, NEW YORK 10065

OFFICE:
780 THIRD AVENUE, 14TH FLOOR
NEW YORK, NEW YORK 10017

We followed up again by email at 11:58 AM today asking for a response by 3pm as the prior order did not stay the deadline to respond to the Complaint. When Plaintiffs' counsel did not respond, we called Darius Marzec at 3:55 PM, but we were informed that he was with a client. As we did not receive a call back, we sent another follow up email at 6:37 PM, again requesting a response and advising that would be sending this letter after 7 PM. At 6:45 Darius Marzec responded that he would too busy to respond and requested that I call him tomorrow when he would then be available. By email sent at 7:04 PM, I explained to Plaintiffs' counsel that we could not wait until 4 PM tomorrow to discuss this rather simple yet important issue, due to the deadline to make this extension request. Further, I advised that unless we heard from him tonight by 7:30 PM whether he consented, and if not why, that we would file this letter motion. As the Phase One Defendants' deadline to respond to the complaint is imminent, and we understand that this request should be submitted 48 hours in advance, the Phase One Defendants are submitting this request.

We greatly appreciate Your Honor's time and consideration in this matter. Due to the urgent nature of this request, we respectfully request that same be considered on an expedited basis.

Respectfully Submitted,

ADELMAN MATZ P.C.



David Marcus, Esq.

Cc. Darius Marzec, Esq. (via ECF)
Mickey Garcia (via email)
Al Jankowsky (via email)

Granted.

Dated: March 15, 2022



DENISE COTE

United States District Judge

PART I